

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: OCTOBER 4, 2006**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: SUP-14757 - APPLICANT: MASSAGE ENVY - OWNER:  
WITCH KYLE, LLC**

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***THIS ITEM WAS HELD IN ABEYANCE FROM THE SEPTEMBER 6, 2006 CITY COUNCIL MEETING AT THE REQUEST OF COUNCIL.***

**\*\* CONDITIONS \*\***

Staff recommends DENIAL. The Planning Commission (6-1/sd vote) recommends APPROVAL, subject to:

**Planning and Development**

1. Conformance to all Minimum Requirements under LVMC Title 19.04.050 for Massage Establishment use.
2. Approval of and conformance to the Conditions of Approval for Rezoning (ZON-5206) and Site Development Plan Review (SDR-5711) shall be required.
3. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
4. A Waiver to allow the business to be open from 8:00 a.m. to 10:00 p.m. where 8:00 a.m. to 9:00 p.m. are the hours allowed is hereby approved.
5. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**\*\* STAFF REPORT \*\***

**APPLICATION REQUEST**

The applicant is requesting a Special Use Permit for a proposed Massage Establishment and a waiver from the 400 foot distance separation requirement from an existing school, a waiver from the 1,000 foot distance separation from an existing Massage Establishment and a waiver from the hours of operation restriction at 7175 West Lake Mead Boulevard.

**EXECUTIVE SUMMARY**

Staff does not support this request as the subject proposal does not meet several of the conditions that are automatically applicable to Massage Establishments per Title 19.04. Specifically, the use will be located too close to a school and another Massage Establishment. Additionally, the proposed hours of operation exceed those allowed by Title 19.04.

**BACKGROUND INFORMATION**

**A) *Related Actions***

- |          |   |
|----------|---|
| 11/17/04 | The City Council approved an amendment to the Southwest Sector Plan of the General Plan (GPA-5205) from PF (Public Facilities) to SC (Service Commercial) for the subject property. The Planning Commission and staff recommended approval.                             |
| 11/17/04 | The City Council approved a request for a Rezoning (ZON-5206) from U (Undeveloped) to C-1 (Limited Commercial) for the subject property. The Planning Commission and staff recommended approval.  |
| 03/16/05 | The City Council approved a Site Development Plan Review (SDR-5711) for a 40,125 square-foot commercial development on the subject property. The Planning Commission recommended approval and the staff recommended denial.   |
| 03/01/06 | The City Council approved a Special Use Permit (SUP-10767) for a proposed Beer/Wine/Cooler On-Sale Establishment and a waiver of the 400-foot distance separation requirement from a school. The Planning Commission recommended approval and staff recommended denial. |
| 08/10/06 | The Planning Commission voted 6-1/sd to recommend APPROVAL (PC Agenda Item #61/stf).  |

***B) Pre-Application Meeting***

06/15/06 A pre-application meeting with the applicant was held and the following items were discussed:

- Staff informed the applicant of the necessary waivers.
- Staff informed the applicant of the parking requirements for this type of use.
- Staff informed the applicant of the submittal requirements

***C) Neighborhood Meetings***

A neighborhood meeting is not required as part of this application request, nor was one held.

**DETAILS OF APPLICATION REQUEST**

***A) Site Area***

Net Acres: 3.5

***B) Existing Land Use***

Subject Property: Commercial Center  
North: Bar; Restaurant; Mini-Mart  
South: Undeveloped Lot  
East: Restaurant  
West: Offices

***C) Planned Land Use***

Subject Property: SC (Service Commercial)  
North: SC (Service Commercial)  
South: PF (Public Facilities)  
East: SC (Service Commercial)  
West: SC (Service Commercial)

***D) Existing Zoning***

Subject Property: U (Undeveloped) Zone [SC (Service Commercial) General Plan Designation] under Resolution of Intent to C-1 (Limited Commercial)  
North: C-1 (Limited Commercial)  
South: U (Undeveloped) Zone [PF (Public Facilities) General Plan Designation]  
East: C-1 (Limited Commercial)  
West: C-1 (Limited Commercial)

**E) General Plan Compliance**

The site is located in the Southwest Sector of the General Plan and has a designation of SC (Service Commercial). As the subject site has been rezoned to C-1 (Limited Commercial), the General Plan and the zoning are in compliance with each other.

<b><i>SPECIAL DISTRICTS/ZONES</i></b>	<b>Yes</b>	<b>No</b>
<b>Special Area Plan</b>		<b>X</b>
<b>Special Overlay District</b>	<b>X</b>	
Airport Overlay District	<b>X</b>	
<b>Trails</b>		<b>X</b>
<b>Rural Preservation Overlay District</b>		<b>X</b>
<b>County/North Las Vegas/HOA Notification</b>		<b>X</b>
<b>Development Impact Notification Assessment</b>		<b>X</b>
<b>Project of Regional Significance</b>		<b>X</b>

Airport Overlay District

The subject site is located in the North Las Vegas Airport Overlay District which restricts the height of buildings to 175 feet. The subject proposal will be well under this maximum height allowed.

**ANALYSIS**

**A) Zoning Code Compliance**

**A1) Parking and Traffic Standards**

Pursuant to Title 19.10, the following Parking Standards apply to the subject proposal:

<b>Uses</b>	<b>GFA</b>	<b>Ratio</b>	<b>Required</b>		<b>Provided</b>	
			<b>Parking</b>		<b>Parking</b>	
			<b>Regular</b>	<b>Handicap</b>	<b>Regular</b>	<b>Handicap</b>
Massage Establishment	3,439 SF.	2 Spaces / Massage Room, Table, or Chair with a minimum of 6 Spaces	28			

Restaurant	9,774 SF.	1 Space / 50 Square Feet Public Waiting and Seating	40			
		1 Space / 200 Feet of Remaining Floor Area	39			
Retail	24,876 SF.	1 Space / 250 Square Feet of Floor Area	100			
<b>TOTAL</b>			<b>207</b> (including handicap accessible)	<b>7</b>	<b>219</b> (including handicap accessible)	<b>7</b>

The subject proposal meets current parking standards per Title 19.10.

A2) Minimum Distance Separation Requirements

Pursuant to Title 19.04, the following Standards apply to the subject proposal:

<b>Standards</b>	<b>Code Requirement</b>	<b>Provided</b>
Church, Synagogue, School, City Park, Child Care Facility, Residential Uses	400 Feet	338 Feet
Similar Use	1,000 Feet	708 Feet

The subject proposal does not meet minimum distance separation requirements from a school or from another massage establishment. Waivers of these requirements have been requested as part of this application.

**B) General Analysis and Discussion**

- Zoning

The subject parcel is currently zone C-1 (Limited Commercial). This zoning category allows for the type of use proposed with an approved Special Use Permit. The site meets all development standards per Title 19. However, the use does not meet several of the conditions contained in the Title 19.04.

- Use

The proposed use is not compatible with the surrounding area based on standards set forth in Title 19.04 for Massage Establishments. The proposal is located in close proximity to a school and to another similar use. Additionally, the applicant is asking for relief from the hours of operation restriction to allow operating hours of 8:00 a.m. to 10:00 p.m. where 8:00 a.m. to 9:00 p.m. is allowed. As such, Staff does not support the use at the proposed location.

- Conditions

1. The use shall comply with all applicable requirements of LVMC Title 6.
2. The use must be located on a secondary thoroughfare or larger.
3. The use may not be located within four hundred feet of any church, synagogue, school, city park, child care facility, or any parcel zoned for residential use.
4. The use may not be located within one thousand feet of any other massage establishment.
5. The hours of operation shall be limited to the period between 8:00 a.m. and 9:00 p.m., unless further limited by the City Council on a case-by-case basis.

## FINDINGS

In order to approve a Special Use Permit application, per Title 19.18.060 the Planning Commission and City Council must affirm the following:

1. **“The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan.”**

The proposed use is not harmonious with this particular area as Title 19.04 sets forth distance requirements to protect uses from this type of business. This proposal does not meet those distance standards.

2. **“The subject site is physically suitable for the type and intensity of land use proposed.”**

The subject site is physically suitable for the use proposed.

3. **“Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.”**

The site is served by West Lake Mead Boulevard (a 100-foot primary arterial). This thoroughfare is capable of accommodating the traffic flow created by the site and the use.

4. **“Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.”**

Approval of this use will not support the public health, safety, and general welfare as it would violate the protections adopted by Title 19 for Massage Establishments.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

6

**ASSEMBLY DISTRICT** 37

**SENATE DISTRICT** 6

**NOTICES MAILED** 85 by City Clerk

**APPROVALS** 0

**PROTESTS** 0